



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

James McCoy's Drug Store South

Respondent Name

Texas Mutual Insurance

MFDR Tracking Number

M4-14-3651-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

August 11, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: No position statement submitted.

Amount in Dispute: \$6,518.77

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requestor billed for provided pharmacy services on the dates above and then billed Texas Mutual for this. Texas Mutual declined to issue payment as some of the bills are untimely, some were denied for no preauthorization, and some were denied for both reasons. No payment is due."

Response submitted by: Texas Mutual Insurance

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 6, 2013 through February 17, 2014	Prescription Medication	\$6,518.77	\$645.41

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out requirements for medical bill submission by health care providers.
3. Texas Labor Code §408.281 sets out the reimbursement guidelines for pharmaceutical services.
4. 28 Texas Administrative Code §134.503 sets out the pharmacy fee guidelines.
5. 28 Texas Administrative Code §134.540 sets out requirements for use of the closed formulary for claims subject to certified networks. The closed formulary applies to all drugs that are prescribed and dispensed for outpatient use for claims subject to a certified network.

6. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
7. 28 Texas Administrative Code §133.20 sets out the requirements for medical bill submission by health care providers.
8. The insurance carrier denied the services in dispute with the following remark codes:
 - 197 – Precertification/authorization/notification absent
 - 29 – The time limit for filing has expired
 - N01 – Preauthorization required for “N” drugs in ODG Appendix A per Rule 134.503 & 134.504
 - 731 – Per 133.20 Provider shall not submit a medical bill later than the 95th day after the date the service, for services on or after 91/1/05
 - 45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement
 - 516 – Paid at Scripnet PBM Network reimbursement
 - 91 – Dispensing fee adjustment
 - 791 – This item is reimbursed as a brand-name prescribed drug
 - 18 – Exact duplicate claim/service

Issues

1. Were the services in dispute submitted timely?
2. Are the insurance carrier’s reasons for denial of payment supported?
3. Are the insurance carrier’s reasons for reduction in payment supported?
4. What is the applicable rule pertaining to reimbursement?
5. Is the requestor entitled to additional reimbursement?

Findings

1. The carrier denied multiple dates of service, (see below) with claim adjustment code 29 – “The time limit for filing has expired.” Review of the submitted claim finds;

Dates of Service in Dispute	Prescription Drug	Amount billed	ScripNet Rejection Message	Texas Mutual Denial Code	Date of EOB
November 20, 2013	Oxycontin 40mg #40	\$575.99	81 – “Claim Too Old” a date of 08/11/2014 was found on the documents	29 – The time limit for filing has expired	March 24, 2014
November 20, 2013	Fentanyl 75mcg #5	\$224.68	81 – “Claim Too Old” a date of 08/11/2014 was found on the documents	29 – The time limit for filing has expired	March 24, 2014
November 13, 2013	Oxycontin 40mg #40	\$412.44	81 – “Claim Too Old” a date of 08/11/2014 was found on the documents	29 – The time limit for filing has expired	March 24, 2014
November 13, 2013	Gabapentin 100mg #24	\$19.79	81 – “Claim Too Old” a date of 08/11/2014 was found on the documents	29 – The time limit for filing has expired	March 24, 2014
November 8, 2013	Methocarbamol 750 mg #120	\$94.59	81 – “Claim Too Old” a date of 08/11/2014 was found on the documents	29 – The time limit for filing has expired	March 24, 2014
November 6, 2013	Fentanyl 75mcg #5	\$224.68	81 – “Claim Too Old” a date of 08/11/2014 was found on the documents	29 – The time limit for filing has expired	March 24, 2014
November 6, 2013	Oxycontin 40 mg #30	\$310.22	81 – “Claim Too Old” a date of 08/11/2014 was found on the documents	29 – The time limit for filing has expired	March 24, 2014

28 Texas Administrative Code 133.20 (b) states,

Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied. The medical bill submitted by the health care provider to the correct workers' compensation insurance carrier is subject to the billing, review, and dispute processes established by Chapter 133, including §133.307(c)(2)(A) - (H) of this title (relating to MDR of Fee Disputes), which establishes the generally acceptable standards for documentation.

Insufficient evidence was found to support an exception detailed above applies. The carrier's denial is supported. The division concludes that the services listed above were not timely filed to the workers' compensation insurance carrier. For that reason no payment can be recommended for these dates of service

2. The carrier denied dates of service December 4, 2013, December 18, 2013, January 17, 2014, January 30, 2014, and February 13, 2014 with claim adjustment code 197 – "Precertification required for "N" drugs in ODG appendix A per Rule 134.503 & 134.504. 28 Texas Administrative Code 134.540 (b) states, Preauthorization for claims subject to the Division's closed formulary. Preauthorization is only required for:

(1) drugs identified with a status of "N" in the current edition of the ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates;

(2) any compound that contains a drug identified with a status of "N" in the current edition of the ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates; and

(3) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

Review of the submitted claim forms finds;

Dates of Service	Prescription Drug	Amount billed	Remark code used by Carrier	ODG Appendix A Status
February 13, 2014	Diazepam 5mg #45	\$15.85	Denied N01 – Preauthorization required for "N" drugs in ODG Appendix A per Rule 134.503 and 134.504	N
February 13, 2014	Oxycontin 40mg #56	\$575.99	Denied N01 – Preauthorization required for "N" drugs in ODG Appendix A per Rule 134.503 and 134.504	N
January 30, 2014	Oxycontin 40mg #56	\$575.99	Denied N01 – Preauthorization required for "N" drugs in ODG Appendix A per Rule 134.503 and 134.504	N
January 30, 2014	Diazepam 5mg #45	\$17.09	Denied N01 – Preauthorization required for "N" drugs in ODG Appendix A per Rule 134.503 and 134.504	N
January 17, 2014	Oxycontin 40mg #56	\$575.99	Denied N01 – Preauthorization required for "N" drugs in ODG Appendix A per Rule 134.503 and 134.504	N
January 3, 2014	Oxycontin 40mg	\$657.80	Denied N01 – Preauthorization required for "N" drugs in ODG	N

<i>(Listed on EOB as 01/30/2014)</i>	#64		Appendix A per Rule 134.503 and 134.504	
December 18, 2013	Oxycontin 40mg #64	\$657.80	Denied N01 – Preauthorization required for “N” drugs in ODG Appendix A per Rule 134.503 and 134.504	N
December 4, 2013	Oxycontin	\$538.54	Denied N01 – Preauthorization required for “N” drugs in ODG Appendix A per Rule 134.503 and 134.504	N

Pursuant to requirements of Rule 134.540(b), the carrier’s denial is supported. The division concludes that preauthorization was required for the services listed above. For that reason no payment can be recommended.

3. For the remaining services in dispute, the carrier made a reduction with the following remark codes, 45 – “Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement” and 516 – “Paid at Scripnet PBM network reimbursement.”

28 Texas Administrative Code §134.503(f) states,

Notwithstanding the provisions of this section, prescription medication or services, as defined by Labor Code §401.011(19)(E), may be reimbursed at a contract rate that is inconsistent with the fee guideline as long as the contract complies with the provisions of Labor Code §408.0281 and applicable division rules.

Texas Labor Code §408.0281 (b) states,

Notwithstanding any provision of Chapter 1305, Insurance Code, or Section 504.053 of this code, prescription medication or services, as defined by Section 401.011(19)(E):

- (1) may be reimbursed in accordance with the fee guidelines adopted by the commissioner or at a contract rate in accordance with this section; and
- (2) may not be delivered through:
 - (A) a workers' compensation health care network under Chapter 1305, Insurance Code; or
 - (B) a contract described by Section 504.053(b)(2).

Texas Labor Code §408.0282(a) states,

Each informal or voluntary network described by Section 408.0281 or 408.0284 shall, not later than the 30th day after the date the network is established, report the following information to the division:

- (1) the name of the informal or voluntary network and federal employer identification number;
- (2) an executive contact for official correspondence for the informal or voluntary network;
- (3) a toll-free telephone number by which a health care provider may contact the informal or voluntary network;
- (4) a list of each insurance carrier with whom the informal or voluntary network contracts, including the carrier's federal employer identification number; and
- (5) a list of, and contact information for, each entity with which the informal or voluntary network has a contract or other business relationship that benefits or is entered into on behalf of an insurance carrier, including an insurance carrier's authorized agent or a subsidiary or other affiliate of the network.

Review of the submitted information finds insufficient information to support that the disputed services are subject to a contractual fee arrangement between the parties to this dispute. The respondent did not submit

a copy of the alleged contract. The respondent did not submit documentation to support that notice, in the time and manner required by Texas Labor Code §408.0282(a) was met. Therefore, pursuant to Texas Labor Code §408.0281 (f)(1)(B) the services in dispute will be reviewed per applicable Division fee guidelines as the Carrier's reduction code is not supported.

4. 28 Texas Administrative Code §134.503 (c) states,

The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

(1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:

(A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;

(B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;

(C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection;

The maximum allowable reimbursement will be calculated as follows:

Dates of Service in Dispute	Prescription Drug	Amount billed	§134.503 (c) (1)(A) ((AWP per unit) x (number of units) x 1.25) + \$4.00 dispensing fee per prescription = reimbursement amount	Amount Paid	Date of Payment	Amount Due
February 17, 2014	Fentanyl 50 mcg	\$148.52	$\$26.36 \times 5 \times 1.25 = \164.75 $+ \$4.00 = \168.75	\$101.85	March 24, 2014	\$66.90
December 18, 2013	Fentanyl 75mcg #5	\$224.68	$\$40.21 \times 5 \times 1.25 = \251.31 $+ \$4.00 = \255.31	\$153.79	March 24, 2014	\$101.52
December 18, 2013	Meloxicam 15mg #30	\$163.42	$\$4.84490 \times 30 \times 1.25 = \181.61 $+ \$4.00 = \185.68	\$8.70	March 24, 2014	\$176.98
December 18, 2013	Tizanidine 4mg #90	\$148.59	$\$1.46507 \times 90 \times 1.25 = \164.82 $+ \$4.00 = \168.82	\$21.00	March 24, 2014	\$147.82
December 6, 2013	Methocarbamol 75mg #120	\$94.59	$\$0.68970 \times 120 \times 1.25 = \103.46 $+ \$4.00 = \107.46	\$65.07	March 24, 2014	\$42.39
December 6, 2013	Colace #90	\$36.85	$\$0.33200 \times 90 \times 1.09 = \32.57 $+ \$4.00 = \36.57	\$28.29	March 24, 2014	\$8.28
December 4, 2013	Fentanyl 75mcg #5	\$224.68	$\$40.21 \times 5 \times 1.25 = \251.31 $+ \$4.00 = \255.31	\$153.79	March 24, 2014	\$101.52
		TOTAL	\$1,177.90	\$532.49		\$645.41

5. The total amount allowed for the services in dispute is \$1,177.90. The carrier previously paid \$532.49. The remaining balance is \$645.41. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$645.41.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$645.41 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	January 26, 2016 _____ Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.